

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 26389 of 2006

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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AMIT NAGINBHAI SHAH - Petitioner(s)
Versus
THE MAMLATDAR & 2 - Respondent(s)

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Appearance :

MEENA VYAS for Petitioner(s) : 1.
 MS ASMITA PATEL, AGP for Respondent(s) : 1.
 MR YH VYAS for Respondent(s) : 2.
 SERVED BY AFFIX.-(R) for Respondent(s) : 3.

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 26/02/2007

ORAL JUDGMENT

Heard the learned advocates.

Feeling aggrieved by the notice of attachment dated 30th November, 2006 issued by the Mamlatdar

(Alien Recovery), Ahmedabad the petitioner, one of the Directors in Indo-American Optics Limited (a company within the meaning of the Companies Act, 1956), has preferred the present petition.

It appears that pursuant to the award dated 27th January, 2003 passed by the Labour Court in Reference No.842/1998, the respondent-workman is entitled to receive certain amount from the aforesaid Indo-American Optics Limited. On an application made by the respondent-workman, the Labour Court, Ahmedabad has issued a recovery certificate in the sum of Rs.1,14,400=00 on 21st March, 2006. Pursuant to the said Recovery Certificate, the Mamlatdar (Alien Recovery) has issued the impugned notice of attachment upon the petitioner, one of the Directors in the aforesaid Company.

It is the grievance of the petitioner that the claim of the workman against the aforesaid Company cannot be executed personally against the petitioner, a Director in the Company who has since resigned with effect from 21st January, 2003.

It is not in dispute that the petitioner was a Director in the aforesaid Company and has since resigned as indicated in the copy of the form no.32 (page 20).

In above view of the matter, the petition is allowed. The impugned notice of attachment dated 30th November, 2006 issued by the Mamlatdar (Alien Recovery) in so far as it is directed against the petitioner, is quashed and set-aside. Rule is made absolute. There shall be no order as to cost.

It is clarified that this order shall not preclude the Mamlatdar (Alien Recovery), Ahmedabad from executing the aforesaid Recovery Certificate against the assets of the Indo-American Optics Limited, the Company.

(Ms. R.M.Doshit, J.)

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